

## Chapter 11: Modification

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### **Can the child support payment amount ever be changed?**

Yes, either parent can ask the Court to review an order after 2 1/2 years. A parent can ask for a review within 2 years if there is a substantial change in either parent's income or a change in expenses such as day care or medical expenses. The Melson Formula will be used again to determine the amount.

### **I would like to modify an existing child support order, what do I need to do?**

You must file a Petition for Modification (form #342).

-A sample Petition for Modification may be found on page 34.

### **When is it appropriate to file a Petition for Modification?**

- 1) more than 2 ½ years have passed since the current support amount was last determined or calculated.
- 2) less than 2 ½ years have passed since the last support determination and a substantial change in circumstances, through no fault of the Petitioner, has occurred regarding:
  - income
  - health insurance cost or availability
  - daycare or private school tuition
  - number of minor children ordered to support
  - number of other minor children to support
- 3) loss of license and incarceration for nonpayment of child support are not grounds for modification of child support.

### **Will a modification be granted?**

If the order is less than 2 ½ years old, a child support calculation must show a 10% increase or decrease to warrant modification. If the order is greater than 2 ½ years old, the Court will modify the order if warranted.

-If back support or arrears are owed, the modified order may include a reasonable repayment schedule.

### **Will a modification be retroactive?**

The modification may be effective from the date that the other party receives notification of your intent to modify only if you send notice by registered or certified mail. If the petition for Modification is sent by regular mail, the modification will be effective from the date of the new order only.

# The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in  
which you are filing.

## PETITION FOR CHILD SUPPORT MODIFICATION

DCSE NUMBER

Fill in the requested information about yourself  
(Petitioner) and the Respondent.

NUMBER

### Petitioner

Name		DOB	
Sarah Smith		2/25/1973	
Street Address			
111 South Oak Street			
Apt. or P.O. Box Number			
City	State	Zip Code	
Dover	DE	19901	
Home Phone #	(302) 555-0099		
Work Phone #	(302) 255-0000		
Cell Phone #	(302) 999-9999		
Attorney Name and Phone Number			
n/a			
Employer:	ABC Corporation		
Employer Address:	123 South Street		
	Dover, DE 19901		

### Respondent

Name		DOB	
Michael Jones		3/14/1977	
Street Address			
555 Main Street			
Apt. or P.O. Box Number			
City	State	Zip Code	
Dover	DE	19901	
Home Phone #	(302) 467-9908		
Work Phone #	(302) 565-0707		
Cell Phone #	(302) 575-1111		
Attorney Name and Phone Number			
n/a			
Employer:	DEF Corporation		
Employer Address:	555 North Street		
	Dover, DE 19901		

IN THE INTEREST OF: (Include last name.)

Shawn Jones

5/25/1995

Name	DOB	Name	DOB	Name	DOB
Name	DOB	Name	DOB	Name	DOB

The Petitioner seeks a modification of the Child Support Order dated 4/5/2006

Fill in the date of the  
support order that  
you wish to modify.

1. ☐ More than 2 ½ years have passed since the current support amount was last determined or calculated.

2. ☒ Less than 2 ½ years have passed since the last support determination and a substantial change of circumstance, through no fault of the Petitioner, has occurred regarding (check all that apply):

- |   |  |
|---|--|
| <input type="checkbox"/> Income or deductions                         | <input type="checkbox"/> Number of minor children on this Order to support |
| <input type="checkbox"/> Health insurance cost or availability        | <input type="checkbox"/> Number of other minor children to support         |
| <input checked="" type="checkbox"/> Daycare or private school tuition | <input type="checkbox"/> Other   |

Indicate the grounds for  
your request to modify  
child support.

if less than 2 ½ years)

Shawn has started at a new high school and his tuition has  
increased by \$10,000 per year.

I acknowledge the following:

is filed within 2 ½ years of the last calculation of current support, only modifications of greater  
than 10% will be imposed.

- Whenever a modification petition is filed, the result may increase or decrease the obligation without regard to who filed the petition.
- If back support or arrears are owed the modified Order should include a reasonable repayment schedule.
- Loss of license and incarceration for nonpayment of child support are not grounds for modification of child support.
- If a Petitioner sends a copy of the Petition to the Respondent by certified mail, the Order may be effective the date of receipt. Otherwise modification Petitions are sent by regular mail and any modification will be from the date of the new Order only.

Therefore, the Petitioner requests the child support obligation be recalculated pursuant to the Delaware Child Support Formula.

3/1/2008

Date

Sarah Smith

Petitioner/Attorney